

# Montana Operations Manual

## Exempt Compensatory Time

**Policy Number**  
**Issuing Authority**

03-0211  
Department of Administration

**First Issued**  
**Effective Date**  
**Last Revised**

June 12, 1987

**Policy Purpose:**

This policy establishes minimum standards for administering exempt compensatory time in Montana state government.

**Scope:**

This policy covers all positions identified as exempt from the Fair Labor Standards Act (FLSA) in Montana's executive branch except those employed by the Montana university system, the Montana State Fund, elected officials, the personal staff of elected officials, and any other position specifically excluded under Section 2-18-103 and 104, MCA.

If these policy provisions conflict with collective bargaining agreements, then the collective bargaining agreements take precedence.

**Procedures:**

Agency management identifies agency positions qualifying for an exemption under the FLSA and Montana's Wage and Hour Laws. Employees in positions identified as exempt may accrue and use exempt compensatory time. Exempt compensatory time does not provide compensation in addition to the employee's annual salary. Exempt compensatory time does provide greater flexibility in scheduling employees in exempt positions.

Nothing in this policy guarantees an employee in an exempt position will be allowed to work hours resulting in the accrual or use of exempt compensatory time.

**A. Exempt Compensatory Time:**

Employees in exempt positions may accrue one hour of exempt compensatory time for each hour in a pay status over 40 hours in a workweek. The supervisor may approve or deny the accrual of exempt compensatory time before or after the employee works the excess hours.

Hours in excess of 40 hours in a workweek spent by an employee traveling, training, or attending conferences, lectures, or meetings may be credited as exempt compensatory time as determined by the employee's supervisor.

Employees will earn, record, and use exempt compensatory time in no less than one-half hour increments.

**B. Exempt Compensatory Time Administration:**

When administering exempt compensatory time, agency management must:

1. require advanced approval, whenever possible, for an employee in a exempt position to work hours resulting in accrual of exempt compensatory time;
2. require employees to report excess hours worked on a timesheet; and
3. follow the record keeping requirements in the Employee Records Management Policy (MOM #03-0110).

Agency management may establish a maximum balance of 120 hours or less for exempt compensatory time and prohibit employees from accruing additional time once they reach the maximum. Employees may continue to work excess hours even if they have reached the maximum balance, but they may not accumulate additional exempt compensatory time.

Agency management may adjust an employee's schedule during the workweek to avoid the accrual of exempt compensatory time.

#### **C. Carry-over Limits and Extensions**

Employees may carry over a maximum of 120 hours of exempt compensatory time from one calendar year into the next year. Employees will forfeit exempt compensatory time in excess of 120 hours unless used within 90 calendar days from the last day of the calendar year in which the compensatory time was earned. Agency management may grant an extension as described below.

Employees are responsible for making reasonable written requests to use excess compensatory time during the 90-day period. Agency management may grant the request to take the time off or extend the number of days the employee has to use the excess exempt compensatory time. Agency management must document the extensions in writing no later than March 31 of each year. The length of the extension is up to the discretion of the agency director or designee, but must not extend beyond the end of the calendar year in which the extension is granted. Any excess exempt compensatory time remaining at the end of the extension is forfeited. If no extension request is made during the 90-day period, the excess hours are forfeited.

#### **D. Exempt Compensatory Time Off Requests:**

Employees may take accrued exempt compensatory time as paid time off as approved by their supervisor.

Agency management may require an employee to take accrued exempt compensatory time off during any workweek.

Employees in exempt positions with an excess annual leave balance as identified under the Annual Leave Policy (MOM # 03-0305) must use excess annual leave before exempt compensatory time may be used.

#### **E. Transfers and Terminations:**

Exempt compensatory time may be transferred with an employee when the employee transfers to another agency provided the new agency

management agrees. The employee forfeits the time if the new agency management does not agree.

Agency management may not issue lump-sum cash payments for accrued exempt compensatory time upon transfer or termination.

Agency management may approve the use of exempt compensatory time to extend an employee's termination date up to a maximum of 120 hours, when either of the following occur:

1. The employee accrued the exempt compensatory time because of management's request to complete projects or meet objectives.
2. Agency management denied the employee reasonable opportunity to take the accrued exempt compensatory time.

#### **Resources:**

Link to the Fair Labor Standards Act of 1938, as amended –  
<http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

Link to Title 29, CFR, Chapter V –  
[http://www.dol.gov/dol/allcfr/Title\\_29/Chapter\\_V.htm](http://www.dol.gov/dol/allcfr/Title_29/Chapter_V.htm)

#### **Definitions:**

For purposes of this policy, the following definitions apply.

**Exempt Position** – a position identified as exempt from the overtime pay provisions of the Fair Labor Standards Act (FLSA) or Montana's Wage and Hour Laws.

**Exempt Compensatory Time** – time accrued by an employee in an exempt position for all time in a pay status in excess of 40 hours in a workweek.

**In a Pay Status** – time period in which an employee is being paid for hours worked or for annual leave, sick leave, or other paid leave, sick leave fund grants, holidays, or compensatory time.

**Workweek** – a regular, recurring period of 168 hours that occurs over seven consecutive 24 hour periods. In Montana state government, the workweek begins at 12:00 am on Saturday and ends at 11:59 pm on Friday, unless defined otherwise by agency management or a collective bargaining agreement.